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Attorneys for Plaintiff Nichia Corporation

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

NICHIA CORPORATION,

Plaintiff,

v.

Case No. 8:18-cv-00362

COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND

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VIZIO, INC.

Defendant.

FOR JURY TRIAL

Judge:

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Nichia Corporation (“Nichia”), by its undersigned counsel, with
3 knowledge as to its own acts and status, and upon information and belief as to the
4 acts and status of others, for its Complaint against defendant VIZIO, Inc.
5 (“VIZIO”), alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This is a civil action for patent infringement arising under the patent
8 laws, 35 U.S.C. § 1, *et seq.* This Court has subject matter jurisdiction over this
9 action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10 2. VIZIO is subject to personal jurisdiction in this judicial district
11 because VIZIO has its principal place of business in California, and regularly
12 conducts business in the State of California and the Central District of California.

13 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and
14 1400(b) because VIZIO (1) resides in this District, and (2) maintains a regular and
15 established place of business in this district and has committed infringing acts in
16 this district. Further, among other things, VIZIO has purposefully availed itself of
17 the privileges of conducting business in the State of California and in this judicial
18 district; VIZIO has sought protection and benefit from the laws of the State of
19 California; VIZIO has solicited business in, transacted business within, and has
20 attempted to derive financial benefit from residents of the State of California and
21 this judicial district; and Nichia’s cause of action arises directly from VIZIO’s
22 business contacts and other activities in the State of California and in this judicial
23 district. VIZIO has admitted that venue is proper in this district in *Nichia Corp. v.*
24 *VIZIO, Inc.*, No. 16-cv-1453 (E.D. Tex.) (Dkts. 16, 89).

25 4. The accused VIZIO television products have been imported into,
26 offered for sale, and sold by or on behalf of VIZIO in the Central District of
27 California. VIZIO, directly and/or through its agents and intermediaries, has placed
28

1 the products at issue in this lawsuit into the stream of commerce throughout the
2 United States through established distribution channels, with the expectation and/or
3 knowledge that they will be offered for sale, sold, and used in the State of
4 California and in this judicial district. Without limiting the foregoing, VIZIO
5 distributes products, including infringing television products, throughout the United
6 States from three third-party logistics centers.

7 5. VIZIO's television products containing infringing LED devices are
8 sold in retail stores in the State of California and throughout this judicial district,
9 including Walmart, Target, Sam's Club, and Best Buy retail stores. VIZIO has
10 reported that it has the first or second shelf-space positions at these retailers, and
11 these four retailers accounted for approximately 81% of VIZIO's net sales during
12 the six-month period ending June 30, 2015.

13 **PRELIMINARY STATEMENT**

14 6. This is an action for patent infringement under the United States patent
15 laws, 35 U.S. C. § 1, *et seq.* The accused products are LED-backlit televisions that
16 are imported into the United States, and/or made, used, sold, and/or offered for sale,
17 in the United States, in the State of California, and in this judicial district, by
18 defendant VIZIO. The LED devices in the accused products' backlighting
19 apparatus infringe at least claims 1, 2, 4, 7, 11, 12, 15, 16, 17, 19 and 21 of U.S.
20 Patent No. 8,530,250 (the "250 Patent"), claims 1-3, 5-8, 10, 13, and 15-20 of U.S.
21 Patent No. 9,490,411 (the "411 Patent"), and claims 1, 2, 4-9, 11, 12, 15-19, 21-23,
22 and 25 of U.S. Patent No. 9,537,071 (the "071 Patent") (collectively the "Patents-
23 in-Suit"), which are owned for all purposes by Plaintiff Nichia.

24 7. As set forth in detail below, the accused VIZIO televisions incorporate
25 LED devices that infringe the Patents-in-Suit. By this lawsuit, Nichia seeks relief
26 for VIZIO's past and ongoing infringement of Nichia's Patents-in-Suit by virtue of
27 VIZIO's incorporation of infringing LEDs into its products.
28

1 **THE PARTIES**

2 8. Plaintiff Nichia Corporation is a corporation organized and existing
3 under the laws of Japan, with its principal place of business in Tokushima, Japan.

4 9. Defendant VIZIO, Inc. is a corporation organized and existing under
5 the laws of the State of California, and has its principle place of business in Irvine,
6 California. VIZIO imports, sells, and/or offers for sale nationwide television
7 products that contain light-emitting diode (“LED”) devices, including in the State
8 of California and in this judicial district.

9 **THE PATENT-IN-SUIT**

10 10. The ’250 Patent, entitled “Light Emitting Device, Resin Package,
11 Resin-Molded Body, and Methods for Manufacturing Light-Emitting Device, Resin
12 Package and Resin-Molded Body,” was duly and lawfully issued by the U.S. Patent
13 and Trademark Office on September 10, 2013. A true and correct copy of the ’250
14 Patent is attached as Exhibit A.

15 11. The ’250 Patent lists Hirofumi Ichikawa, Masaki Hayashi, Shimpei
16 Sasaoka, and Tomohide Miki as inventors.

17 12. Nichia is the owner of the ’250 Patent by valid assignment from the
18 inventors. Nichia owns all rights, title, and interest in the ’250 Patent, including the
19 right to sue for and recover all past, present, and future damages for infringement of
20 the ’250 Patent.

21 13. The ’250 Patent was previously the subject of litigation in the Eastern
22 District of Texas, and was found valid and infringed. *Nichia Corp. v. Everlight*
23 *Elects. Co., Ltd.*, No. 13-cv-702, 2016 WL 310142 (E.D. Tex. Jan. 25, 2016) (the
24 “Everlight Litigation”). On appeal, the Federal Circuit affirmed the district court’s
25 decision finding, *inter alia*, the ’250 Patent valid and infringed. *Nichia Corp. v.*
26 *Everlight Ams., Inc.*, 855 F.3d 1328 (Fed. Cir. 2017).

27 14. The ’411 Patent, entitled “Light Emitting Device, Resin Package,
28 Resin-Molded Body, and Methods for Manufacturing Light-Emitting Device, Resin

1 Package and Resin-Molded Body,” was duly and lawfully issued by the U.S. Patent
2 and Trademark Office on November 8, 2016. A true and correct copy of the ’411
3 Patent is attached as Exhibit B. The ’411 Patent is a continuation of Application No.
4 13/969,182, filed on August 16, 2013, which is a continuation of Application No.
5 12/737,940, filed as Application No. PCT/JP2009/004170 on August 27, 2009, now
6 the ’250 Patent.

7 15. The ’411 Patent lists Hirofumi Ichikawa, Masaki Hayashi, Shimpei
8 Sasaoka, and Tomohide Miki as inventors.

9 16. Nichia is the owner of the ’411 Patent by valid assignment from the
10 inventors. Nichia owns all rights, title, and interest in the ’411 Patent, including the
11 right to sue for and recover all past, present, and future damages for infringement of
12 the ’411 Patent.

13 17. The ’071 Patent, entitled “Light Emitting Device, Resin Package,
14 Resin-Molded Body, and Methods for Manufacturing Light-Emitting Device, Resin
15 Package and Resin-Molded Body,” was duly and lawfully issued by the U.S. Patent
16 and Trademark Office on January 3, 2017. A true and correct copy of the ’071
17 Patent is attached as Exhibit C. The ’071 Patent is a continuation of Application No.
18 13/969,182, filed on August 16, 2013, which is a continuation of Application No.
19 12/737,940, filed as Application No. PCT/JP2009/004170 on August 27, 2009, now
20 the ’250 Patent.

21 18. The ’071 Patent lists Hirofumi Ichikawa, Masaki Hayashi, Shimpei
22 Sasoka, and Tomohide as inventors.

23 19. Nichia is the owner of the ’071 Patent by valid assignment from the
24 inventors. Nichia owns all rights, title, and interest in the ’071 Patent, including the
25 right to sue for and recover all past, present, and future damages for infringement of
26 the ’071 Patent.

27 20. The Abstract of the Patents-in-suit provides as follows:
28

1 A method of manufacturing a light emitting device having a resin
2 package which provides an optical reflectivity equal to or more than
3 70% at a wavelength between 350 nm and 800 nm after thermal
4 curing, and in which a resin part and a lead are formed in a
5 substantially same plane in an outer side surface, includes a step of
6 sandwiching a lead frame provided with a notch part, by means of an
7 upper mold and a lower mold, a step of transfer-molding a
8 thermosetting resin containing a light reflecting material in a mold
sandwiched by the upper mold and the lower mold to form a resin-
molded body in the lead frame and a step of cutting the resin-molded
body and the lead frame along the notch part.

9 **THE TEXAS LITIGATION**

10 21. Nichia sued VIZIO for infringement of the '250 Patent in the Eastern
11 District of Texas on March 21, 2016. Complaint, No. 16-cv-246-JRG (Dkt. 1). In a
12 second complaint filed December 27, 2016, Nichia accused VIZIO of infringing the
13 '411 Patent, No. 16-cv-1453 (Dkt. 1). On February 21, 2017, Nichia amended its
14 complaint to add claims of infringement under the '071 Patent. *Id.* at (Dkt. 9).

15 22. Concurrent with the VIZIO Texas litigations, Nichia also sued four
16 other defendant groups alleging infringement of the Patents-in-suit: Lowe's Home
17 Centers, LLC and L G Sourcing, Inc.; TCL Multimedia Tech. Holdings Ltd. and
18 TTE Tech., Inc.; Feit Electric Co., Inc.; and Mary Elle Fashions, Inc. d/b/a Meridian
19 Electric. The district court consolidated the cases against all five defendant groups
20 on May 15, 2017, No. 16-cv-1454 (Dkt. 24), and held a status conference on May
21 31, 2017 setting the Markman Hearing for January 22, 2018 and jury selection for
22 September 10, 2018. *Id.* (Dkt. Entry 5/31/17). On June 15, 2017, the district court
23 entered a Docket Control Order, further setting the deadline for the close of fact
24 discovery at April 23, 2018. *Id.* (Dkt. 68). In the following months, the parties
25 engaged in discovery, exchanged infringement and invalidity contentions, and fully
26 briefed all claim construction issues.

1 of providing a lead frame comprising at least one notch and the step of plating the
2 lead frame. The process used to make the LED devices found in D28h-C1 LED TV
3 further includes the step of, after plating the lead frame, providing an upper mold on
4 a first surface of the plated lead frame and a lower mold on a second surface of the
5 plated lead frame, and transfer-molding a thermosetting resin containing a light
6 reflecting material in a space between the upper mold and the lower mold to form a
7 resin-molded body. The process also includes the step of cutting the resin-molded
8 body and the plated lead frame along the at least one notch to form a resin package,
9 the resin package comprising a resin part and at least one lead, and the cutting step
10 being performed such that an outer surface of the resin part and an outer surface of
11 the at least one lead are planar at an outer side surface of the resin package, wherein
12 the plated lead frame is cut so as to form an unplated outer side surface on the lead.
13 As is apparent from their structure, the process by which the LED devices in the
14 D28h-C1 LED TV are manufactured also includes the step specified in claim 7 of
15 the '250 Patent – *viz.*, providing a light emitting element in a concave portion of the
16 resin package, wherein the transfer-molding step forms a plurality of concave
17 portions corresponding to the convex portions of the upper mold, each of the
18 concave portions comprising an inner bottom surface at which a portion of lead
19 frame is exposed.

20 27. VIZIO, directly and/or through intermediaries and agents, has imported
21 into the United States, and sold and offered to sell in the United States, including in
22 this judicial district, television products, such as the D28h-C1 LED TV, that
23 incorporate the infringing LED devices.

24 28. VIZIO imports, manufactures, uses, sells, and/or offers for sale in the
25 United States, televisions that incorporate LED devices that infringe at least claim 1
26 of the '411 Patent, which reads:

27
28 1. A light emitting device comprising:

1
2 a resin package comprising a resin part and a metal part including at
3 least two metal plates, said resin package having four outer lateral
4 surfaces and having a concave portion having a bottom surface; and

5 a light emitting element mounted on the bottom surface of the concave
6 portion and electrically connected to the metal part,

7 wherein at least a portion of an outer lateral surface of the resin part
8 and at least a portion of an outer lateral surface of the metal part are
9 coplanar at an outer lateral surface of the resin package,

10 wherein both a part of the metal part and a part of the resin part are
11 disposed in a region below an upper surface of the metal part, on four
12 outer lateral surfaces of the resin package, and

13 wherein a notch is formed in the metal part at each of the four outer
14 lateral surfaces of the resin package.

15 29. The LED devices in the accused televisions, including at least VIZIO's
16 D28h-C1 LED TV and D28hn-D1 LED TV are light emitting devices that include a
17 resin package comprising a resin part and a metal part including at least two metal
18 plates. In addition, in the LED devices incorporated in the accused televisions, the
19 resin package has four outer lateral surfaces, a concave portion having a bottom
20 surface, and a light emitting element mounted on the bottom surface of the concave
21 portion and electrically connected to the metal part. In these LED devices, at least a
22 portion of an outer lateral surface of the resin part and at least a portion of an outer
23 lateral surface of the metal part are coplanar at an outer lateral surface of the resin
24 package. Moreover, both a part of the metal part and a part of the resin part are
25 disposed in a region below an upper surface of the metal part, on four outer lateral
26 surfaces of the resin package. In addition, in these LED devices, a notch is formed
27 in the metal part at each of the four outer lateral surfaces of the resin package.

28 Further, the LED devices incorporated in the accused televisions also include the

1 additional elements of at least one of claims 1-3, 5-8, 10, 13, and 15-20 of the '411
2 patent.

3 30. VIZIO imports, manufactures, uses, sells, and/or offers for sale in the
4 United States, televisions that incorporate LED devices that infringe at least claim 1
5 of the '071 Patent, which reads:

6
7 1. A light emitting device comprising:

8 a resin package comprising a resin part and a metal part including first
9 and second metal plates, said resin package having four outer lateral
10 surfaces and having a concave portion having a bottom surface; and

11 a light emitting element mounted on the bottom surface of the concave
12 portion and electrically connected to the metal part,

13 wherein at least a portion of an outer lateral surface of the resin part
14 and at least a portion of an outer lateral surface of the metal part are
15 coplanar at each of the four outer lateral surfaces of the resin package,

16 wherein a notch is formed in the metal part at each of the four outer
17 lateral surfaces of the resin package,

18 wherein the resin part is located at left and right sides of a portion of
19 the metal part at at least two of the four outer lateral surfaces of the
20 resin package, and wherein each of the first and second metal plates is
21 substantially flat.

22 31. The LED devices in the accused televisions, including at least VIZIO's
23 D28h-C1 LED TV, are light emitting devices that include a resin package
24 comprising a resin part and a metal part including first and second metal plates. In
25 addition, in the LED devices incorporated in the accused televisions, the resin
26 package has four outer lateral surfaces, a concave portion having a bottom surface,
27 and a light emitting element mounted on the bottom surface of the concave portion
28 and electrically connected to the metal part. In these LED devices, at least a portion
of an outer lateral surface of the resin part and at least a portion of an outer lateral

1 surface of the metal part are coplanar at each of the four outer lateral surfaces of the
2 resin package. Moreover, the resin part is located at left and right sides of a portion
3 of the metal part at at least two of the four outer lateral surfaces of the resin
4 package. In addition, in these LED devices, a notch is formed in the metal part at
5 each of the four outer lateral surfaces of the resin package and each of the first and
6 second metal plates is substantially flat. Further, the LED devices incorporated in
7 the accused televisions also include the additional elements of at least one of claims
8 1, 2, 4-9, 11, 12, 15-19, 21-23, and 25 of the '071 patent.

9 32. VIZIO, directly and/or through intermediaries and agents, has imported
10 into the United States, used, sold and/or offered to sell in the United States,
11 including in this judicial district, television products that incorporate the infringing
12 LED devices, such as VIZIO LED TV model numbers D24h-C1, D28h-C1, D28hn-
13 D1, D32hn-E1, D39hn-E0, D55u-D1, E50-D1, E55-E1, E60-C3, M43-C1, M60-
14 C3, and other VIZIO LED TVs identified by Nichia or VIZIO as having the same
15 LCD panels as these model numbers. These products infringe the Patents-in-suit, as
16 described, for example, in Exhibits D-F.

17 **COUNT I**
18 **(Infringement of U.S. Patent No. 8,530,250)**
19 **(35 U.S. C. § 271(a))**

20 33. Nichia repeats and re-alleges each and every allegation of paragraphs
21 1-32 as if fully set forth herein.

22 34. The '250 Patent is valid and enforceable.

23 35. By its importation into the United States, and sale and/or offer for sale
24 in the United States, of television products that incorporate infringing LED devices,
25 including but not limited to, for example, the VIZIO D-Series 28" Class Full-Array
26 LED TV D28h-C1, VIZIO has been and is now infringing at least 17, 19 and 21 of
27 the '250 Patent, in the State of California, in this judicial district, and elsewhere, in
28 violation of 35 U.S.C. § 271(a).

36. VIZIO's actions are without the consent of Nichia.

1 37. Nichia has been and will continue to be damaged by VIZIO's
2 infringement of the '250 Patent.

3 38. Nichia and has been and will continue to be irreparably harmed unless
4 VIZIO's infringement of the '250 Patent is enjoined.

5 **COUNT II**
6 **(Infringement of U.S. Patent No. 8,530,250)**
7 **(35 U.S.C. § 271(g))**

8 39. Nichia repeats and re-alleges each and every allegation of paragraphs
9 1-38 as if fully set forth herein.

10 40. By its importation into the United States, and sale and/or offer for sale
11 in the United States, of television products that incorporate LED devices made by a
12 process patented in the United States, including but not limited to, for example, the
13 VIZIO D-Series 28" Class Full-Array LED TV D28h-C1, VIZIO has been and is
14 now infringing at least claims 1, 2, 4, 7, 11, 12, 15, 16, 17, 19, and 21 of the '250
15 Patent, in the State of California, in this judicial district, and elsewhere, in violation
16 of 35 U.S.C. § 271(g).

17 41. VIZIO's actions are without the consent of Nichia.

18 42. Nichia has been and will continue to be damaged by VIZIO's
19 infringement of the '250 Patent.

20 43. Nichia and has been and will continue to be irreparably harmed unless
21 VIZIO's infringement of the '250 Patent is enjoined.

22 **COUNT III**
23 **(Infringement of U.S. Patent No. 9,490,411)**
24 **(35 U.S.C. § 271(a))**

25 44. Nichia repeats and re-alleges each and every allegation of paragraphs
26 1-43 as if fully set forth herein.

27 45. The '411 Patent is valid and enforceable.

28 46. By its importation into the United States, use, and sale and/or offer for
sale in the United States, of television products that incorporate infringing LED
devices, including but not limited to, for example, the VIZIO D-Series 28" Class

1 Full-Array LED TV D28h-C1 and the D28hn-D1 LED TV, VIZIO has been and is
2 now infringing at least one of claims 1-3, 5-8, 10, 13, and 15-20 of the '411 Patent,
3 in the State of California, in this judicial district, and elsewhere, in violation of 35
4 U.S.C. § 271(a).

5 47. VIZIO's actions are without the consent of Nichia.

6 48. Nichia has been and will continue to be damaged by VIZIO's
7 infringement of the '411 Patent.

8 49. Nichia and has been and will continue to be irreparably harmed unless
9 VIZIO's infringement of the '411 Patent is enjoined.

10 **COUNT IV**
11 **(Infringement of U.S. Patent No. 9,537,071)**
12 **(35 U.S.C. § 271(a))**

13 50. Nichia repeats and re-alleges each and every allegation of paragraphs
14 1-49 as if fully set forth herein.

15 51. The '071 Patent is valid and enforceable.

16 52. By its importation into the United States, use, and sale and/or offer for
17 sale in the United States, of television products that incorporate infringing LED
18 devices, including but not limited to, for example, the VIZIO D-Series 28" Class
19 Full-Array LED TV D28h-C1, VIZIO has been and is now infringing at least one of
20 claims 1, 2, 4-9, 11, 12, 15-19, 21-23, and 25 of the '071 Patent, in the State of
21 California, in this judicial district, and elsewhere, in violation of 35 U.S.C. § 271(a).

22 53. VIZIO's actions are without the consent of Nichia.

23 54. Nichia has been and will continue to be damaged by VIZIO's
24 infringement of the '071 Patent.

25 55. Nichia has been and will continue to be irreparably harmed unless
26 VIZIO's infringement of the '071 Patent is enjoined.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiff Nichia Corporation prays that the Court enter
judgment against Defendant VIZIO and in favor of Nichia, as follows:

1 A. Finding that the '250 Patent was duly and lawfully issued, and is valid and
2 enforceable;

3 B. Finding that VIZIO has infringed one or more of the claims of the '250
4 Patent;

5 C. Finding that the '411 Patent was duly and lawfully issued, and is valid and
6 enforceable;

7 D. Finding that VIZIO has infringed one or more of the claims of the '411
8 Patent;

9 E. Finding that the '071 Patent was duly and lawfully issued, and is valid and
10 enforceable;

11 F. Finding that VIZIO has infringed one or more of the claims of the '071
12 Patent;

13 G. Awarding damages to Nichia in accordance with 35 U.S.C. § 284 and 35
14 U.S.C. § 154(d), including pre-judgment and post-judgment interest, to compensate
15 Nichia for VIZIO's infringement of the '250, '411, and '071 Patents;

16 H. Ordering preliminary and permanent injunctive relief restraining and
17 enjoining VIZIO and its officers, agents, attorneys, employees, and those acting in
18 privity or active concert with VIZIO, from infringement of the '250, '411, and '071
19 Patents for the full term thereof;

20 I. Finding VIZIO's infringement willful and awarding treble damages under
21 35 U.S.C. § 284;

22 J. Finding that this case is exceptional pursuant to 35 U.S.C. § 285;

23 K. Awarding Nichia its costs and attorneys' fees; and

24 L. Awarding Nichia such other and further relief as this Court deems just and
25 proper.

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Dated: March 5, 2018

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By: /s/ William S. O’Hare
William S. O’Hare
Deborah S. Mallgrave
Attorneys for Plaintiff Nichia Corporation

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JURY DEMAND

Nichia hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: March 5, 2018

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